

THIS OPINION WAS NOT WRITTEN FOR PUBLICATION

The opinion in support of the decision being entered today (1) was not written for publication in a law journal and (2) is not binding precedent of the Board.

Paper No. 36

UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE BOARD OF PATENT APPEALS  
AND INTERFERENCES

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Ex parte AUGUST LIEPOLD, BERND SCHOLTYSIK,  
HARTMUT THIELE and JOSE TORAL

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Appeal No. 98-1938  
Application 08/570,196<sup>1</sup>

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ON BRIEF

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Before FRANKFORT, McQUADE and CRAWFORD, Administrative Patent Judges.

FRANKFORT, Administrative Patent Judge.

DECISION ON APPEAL

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<sup>1</sup> Application for patent filed December 11, 1995. According to appellants, the application is a continuation of Application 08/121,433, filed September 16, 1993, now abandoned, which is a division of Application 07/835,833, filed February 18, 1992, now U. S. Patent No. 5,257,749, issued November 2, 1993.

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This is a decision on appeal from the examiner's final rejection of claims 31 through 34, 40 through 42 and 48 through 50, which are all of the claims pending in the application.

Claims 1 through 30, 35 through 39 and 43 through 47 have been canceled.

Appellants' invention is directed to a hub for wound-up information media in strip or tape form. As expressly noted on pages 2 and 3 of the specification and as required in independent claim 31 on appeal, the hub comprises an outer ring (2) and an inner ring (3) connected to each other by flexibly deformable intermediate elements (4) extending in radial and circumferential directions and "preventing any relative movement of the outer ring to the inner ring in its circumferential direction" (specification, page 3).

Independent claim 31 is representative of the subject matter on appeal and a copy of that claim is found in the Appendix to appellants' brief.

The prior art references of record relied upon by the examiner in rejecting the appealed claims are:

Honsa

3,726,489

Apr. 10, 1973

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Ender et al. (Ender)	4,081,151	Mar. 28, 1978
Jorgensen et al. (Jorgensen)	4,923,137	May 8,

1990

Claims 31 through 33, 40 through 42 and 48 through 50 stand rejected under 35 U.S.C. § 103 as being unpatentable over Jorgensen in view of Honsa.

Claim 34 stands rejected under 35 U.S.C. § 103 as being unpatentable over Jorgensen in view of Honsa as applied above, and further in view of Ender.

Rather than reiterate the examiner's full statement of the above-noted rejections and the conflicting viewpoints advanced by the examiner and appellants regarding the rejections, we make reference to the examiner's answer (Paper No. 33, mailed February 18, 1998) for the examiner's reasoning in support of the rejections, and to appellants' brief (Paper No. 32, filed January 8, 1998) and reply brief (Paper No. 34, filed April 21, 1998) for appellants' arguments thereagainst.

#### OPINION

In reaching our decision in this appeal, we have given

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careful consideration to appellants' specification and claims, to the applied prior art references, and to the respective positions articulated by appellants and the examiner. As a consequence of our review, we have made the determination that we will not sustain the examiner's rejections of the appealed claims under 35 U.S.C. § 103. Our reasoning follows.

In reviewing the teachings of Jorgensen and Honsa as applied to claims 31 through 33, 40 through 42 and 48 through 50 under 35 U.S.C. § 103, we must agree with appellants (brief, pages 5-10 and reply brief, pages 2-4) that the applied prior art references do not teach, suggest or render obvious the hub structure set forth in the above enumerated claims on appeal. Independent claim 31 specifically requires that the inner and outer rings of the claimed hub structure are connected to one another by flexibly deformable intermediate elements "so as to prevent movement of the outer ring relative to the inner ring in the circumferential direction of said outer ring" (emphasis added). In contrast to this requirement, Jorgensen specifically discloses (col. 1, lines 31-42 and col. 2, lines 34-50) that there is relative rotation between the outer (5) and inner (9) rings of the tape

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reel hub (4) therein so as to significantly reduce any compression of the inner ring to a magnitude which can be tolerated in the production setting for which the tape reel hub (4) is intended.

The examiner's reliance on Honsa for a teaching of manufacturing the hub of Jorgensen from a thermoplastic material, such as polystyrene, does nothing to alter the fact that Jorgensen specifically desires and allows for relative rotation between the inner and outer rings of the hub (4) therein, while the claims before us on appeal specifically set forth that any such relative rotation between the inner and outer rings of the claimed hub structure in the circumferential direction is prevented. The examiner's assertion (answer, page 5) that the claims on appeal do not preclude the presence of relative rotation under circumstances when the claimed hub is tightly wound with tape and is under compression, is not understood. Both the specification of the present application (page 3) and the claims on appeal expressly and unambiguously indicate that relative rotation of the nature alluded to by the examiner is prevented in appellants' claimed hub structure.

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Since the examiner's factual finding (answer, page 3) that the elements (6) of Jorgensen "prevent relative movement between the rings in the circumferential direction," is clearly in error, it follows that the collective teachings of Jorgensen and Honsa as applied by the examiner above do not and can not render obvious a hub structure like that set forth in appellants' claims on appeal. A review of the Ender patent applied by the examiner against dependent claim 34 reveals nothing which would supply that which we have indicated above to be lacking in the basic combination of Jorgensen and Honsa.

Accordingly, the examiner's rejection of claims 31 through 33, 40 through 42 and 48 through 50 under 35 U.S.C. § 103 based on Jorgensen and Honsa, and that of claim 34 based on Jorgensen,

Honsa and Ender, will not be sustained, and the decision of the examiner is reversed.

REVERSED

CHARLES E. FRANKFORT )

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Administrative Patent Judge	)	
	)	
	)	
	)	
JOHN P. McQUADE	)	BOARD OF PATENT
Administrative Patent Judge	)	APPEALS AND
	)	INTERFERENCES
	)	
MURRIEL E. CRAWFORD	)	
Administrative Patent Judge	)	

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